



DEC 05 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
www.uspto.gov

FOLEY & LARDNER  
WASHINGTON HARBOUR  
SUITE 500  
3000 K STREET NW  
WASHINGTON, DC 20007-5109

In re Application of  
KOBAYASHI et al.  
Application No.: 09/700,993  
PCT No.: PCT/JP99/02644  
Int. Filing Date: 20 May 1999  
Priority Date: 22 May 1998  
For: ENDO-B-N-ACETYLGLUCOSAMINIDASE GENE :

DECISION ON

DECLARATION

This is a decision on the submission filed in the United States Patent and Trademark Office (USPTO) on 20 July 2001 in response to the 22 May 2001 Notification of Missing Requirements.

### BACKGROUND

On 22 May 2001, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath/declaration and a surcharge for filing after the 30 month period was required. The notification set a two-month time period in which to respond.

On 20 July 2001, applicants filed a Declaration and Power of Attorney signed by Yoriko Takeuchi, spouse and legal representative of second inventor, Makoto Takeuchi. There is no indication that Mr. Takeuchi is either deceased, insane or legally incapacitated.

### DISCUSSION

The declaration submitted on 20 July 2001 identifies each inventor and country of citizenship of each inventor and states the relationship of Yoriko Takeuchi as legal representative of inventor Makoto Takeuchi. The declaration also states the citizenship, residency and mailing address of the legal representative. However, applicants have not explained whether the declaration is being filed under 37 CFR 1.42 [When the inventor is dead] or 1.43 [when the inventor is insane or legally incapacitated]. Thus, the requirements of 37 CFR 1.497 have not been met and the declaration is unacceptable at this time.

Accordingly, it is inappropriate to accord the application status under either 37 CFR 1.42 or 1.43 at this time.

### CONCLUSION

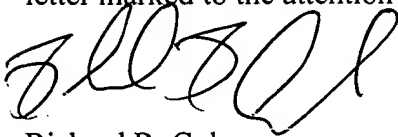
For the above reasons, the declaration filed on 02 March 2001 is unacceptable and the request for acceptance of the declaration as a proper response to the Notification of Missing

Requirements is **DISMISSED without prejudice.**

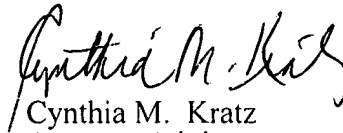
If reconsideration of the merits of the request for status under 37 CFR 1.42 or 1.43 is desired, applicant is required to correct the above-noted defects within TWO (2) MONTHS from the mail date of this Decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Submission" under 37 CFR 1.42 under 37 CFR 1.43.

Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.



Richard R. Cole  
Legal Examiner  
PCT Legal Office



Cynthia M. Kratz  
Attorney Advisor  
PCT Legal Office

CMK/RRC:cmk

Telephone: (703) 306-5467